

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Jan 03, 2024**

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

ROBBIN K.,<sup>1</sup>

Plaintiff,

v.

MARTIN O'MALLEY, Commissioner of  
Social Security,<sup>2</sup>

Defendant.

No. 2:23-cv-00199-EFS

**ORDER AFFIRMING THE ALJ'S  
DENIAL OF BENEFITS**

Due to social anxiety, agoraphobia, anxiety, difficulty sleeping, nausea,  
irritability, fatigue, racing thoughts, depression, and trouble losing weight,

---

<sup>1</sup> For privacy reasons, Plaintiff is referred to by first name and last initial or as  
"Plaintiff." *See* LCivR 5.2(c).

<sup>2</sup> Martin O'Malley became the Commissioner of Social Security on December 20,  
2023. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, and section  
205(g) of the Social Security Act, 42 U.S.C. § 405(g), he is hereby substituted for  
Kilolo Kijakazi as the defendant.

1 Plaintiff Robbin K. claims she is unable to work full-time and applied for social-  
2 security benefits. She appeals the denial of benefits by the Administrative Law  
3 Judge (ALJ) on the grounds that the ALJ improperly analyzed the credibility of  
4 Plaintiff's subjective complaints, and the ALJ's evaluation of the medical expert  
5 opinions was flawed. Although the record reflects that Plaintiff's impairments  
6 limit her mentally, the Administrative Law Judge's (ALJ) nondisability finding is  
7 adequately explained and supported by substantial evidence. For the reasons that  
8 follow, the ALJ's decision is affirmed.

### 9 I. Background

10 In January 2018, Plaintiff filed an application for benefits under Title 2,  
11 claiming disability beginning June 1, 2017, based on the mental and physical  
12 impairments noted above.<sup>3</sup>

13 After the agency denied Plaintiff benefits, ALJ Michael Blanton held a  
14 telephone hearing in February 2020, but did not issue a decision before taking  
15 administrative leave.<sup>4</sup> On June 13, 2022, ALJ Deborah Van Vleck (the ALJ) held a  
16 hearing via telephone, at which Plaintiff and a vocational expert testified.<sup>5</sup> After  
17  
18  
19

---

20 <sup>3</sup> AR 267, 305.

21 <sup>4</sup> AR 38-64.

22 <sup>5</sup> AR 65-104.

1 the hearing, the ALJ issued a decision denying benefits.<sup>6</sup> The ALJ found Plaintiff's  
2 alleged symptoms were not entirely consistent with the medical evidence and the  
3 other evidence.<sup>7</sup> As to medical opinions, the ALJ found:

- 4 • The opinions of state agency evaluator Michael Regets, PhD, to be  
5 persuasive.
- 6 • The opinions of state agency evaluator John Robinson, PhD, not  
7 subject to consideration because he was not an acceptable medical  
8 source.
- 9 • The opinions of consultative examiner Catherine MacLennan, PhD, to  
10 be unpersuasive.

11 As to the sequential disability analysis, the ALJ found:

- 12 • Plaintiff met the insured status requirements of the Social Security  
13 Act through December 31, 2024.
- 14 • Step one: Plaintiff had not engaged in substantial gainful activity  
15 since June 1, 2017, the alleged onset date.
- 16 • Step two: Plaintiff had the following medically determinable severe  
17 impairments: a mental impairment diagnosed to include depression  
18

---

19  
20 <sup>6</sup> AR 12-37. Per 20 C.F.R. §§ 404.1520(a)–(g), a five-step evaluation determines  
21 whether a claimant is disabled.

22 <sup>7</sup> AR 25-27.  
23

1 and anxiety disorder, bipolar II disorder, and post-traumatic stress  
2 disorder.

- 3 • Also at step two, the ALJ found the following conditions to be non-  
4 severe: obesity and gastrointestinal problems/irritable bowel  
5 syndrome.
- 6 • Step three: Plaintiff did not have an impairment or combination of  
7 impairments that met or medically equaled the severity of one of the  
8 listed impairments.
- 9 • RFC: Plaintiff had the RFC to perform a full range of work at all  
10 exertional levels with the following exceptions:  
11 [Plaintiff] can perform simple, routine, and repetitive tasks that  
12 are not production rate pace (i.e. – assembly line work);  
13 [Plaintiff] can use judgment and deal with changes that are  
14 consistent with simple, routine, and repetitive tasks that are not  
15 production rate paced; with occasional interaction with  
16 supervisors and coworkers. [Plaintiff] can never work with the  
17 public.
- 18 • Step four: Plaintiff was unable to perform her past relevant work as a  
19 mail clerk, stockroom clerk, department supervisor, and social worker.
- 20 • Step five: Plaintiff was able to perform jobs available in the national  
21 economy in substantial numbers as a floor cleaner (DOT 381.687-034),  
22 a janitor (DOT 381.687-018), and a hand launderer (DOT 361.684-  
23 010).<sup>8</sup>

---

<sup>8</sup> AR 19-30.

1 Plaintiff timely requested review of the ALJ's decision by the Appeals  
2 Council and now this Court.<sup>9</sup>

## 3 II. Standard of Review

4 The ALJ's decision is reversed "only if it is not supported by substantial  
5 evidence or is based on legal error,"<sup>10</sup> and such error impacted the nondisability  
6 determination.<sup>11</sup> Substantial evidence is "more than a mere scintilla but less than a  
7 preponderance; it is such relevant evidence as a reasonable mind might accept as  
8 adequate to support a conclusion."<sup>12</sup>

---

9  
10 <sup>9</sup> AR 264.

11 <sup>10</sup> *Hill v. Astrue*, 698 F.3d 1153, 1158 (9th Cir. 2012). *See* 42 U.S.C. § 405(g).

12 <sup>11</sup> *Molina v. Astrue*, 674 F.3d 1104, 1115 (9th Cir. 2012) ), *superseded on other*  
13 *grounds by* 20 C.F.R. § 416.920(a) (recognizing that the court may not reverse an  
14 ALJ decision due to a harmless error—one that "is inconsequential to the ultimate  
15 nondisability determination").

16 <sup>12</sup> *Hill*, 698 F.3d at 1159 (quoting *Sandgathe v. Chater*, 108 F.3d 978, 980 (9th Cir.  
17 1997)). *See also* *Lingenfelter v. Astrue*, 504 F.3d 1028, 1035 (9th Cir. 2007) (The  
18 court "must consider the entire record as a whole, weighing both the evidence that  
19 supports and the evidence that detracts from the Commissioner's conclusion," not  
20 simply the evidence cited by the ALJ or the parties.) (cleaned up); *Black v. Apfel*,  
21 143 F.3d 383, 386 (8th Cir. 1998) ("An ALJ's failure to cite specific evidence does  
22 not indicate that such evidence was not considered[.]").

### III. Analysis

Plaintiff seeks relief from the denial of disability on two grounds. She argues the ALJ erred when evaluating Plaintiff's subjective complaints and erred when evaluating the medical opinion of Dr. MacLennan. The Commissioner argues there was no error because the ALJ reasonably discounted Plaintiff's allegations of disabling impairments during the relevant period and reasonably assessed the medical opinions. As is explained below, the Court agrees with the Commissioner and affirms the ALJ's nondisability finding.

#### A. Symptom Reports: Plaintiff fails to establish consequential error

Plaintiff argues the ALJ failed to properly assess her subjective complaints regarding problems with mental impairments and social interactions.

##### 1. Standard

When examining a claimant's symptoms, the ALJ utilizes a two-step inquiry. "First, the ALJ must determine whether there is objective medical evidence of an underlying impairment which could reasonably be expected to produce the pain or other symptoms alleged."<sup>13</sup> Second, "[i]f the claimant meets the first test and there is no evidence of malingering, the ALJ can only reject the claimant's testimony about the severity of the symptoms if [the ALJ] gives 'specific, clear and convincing

---

<sup>13</sup> *Molina*, 674 F.3d at 1112.

1 reasons' for the rejection."<sup>14</sup> General findings are insufficient; rather, the ALJ must  
2 identify what symptom claims are being discounted and what evidence undermines  
3 these claims.<sup>15</sup> "The clear and convincing standard is the most demanding required  
4 in Social Security cases."<sup>16</sup> Therefore, if an ALJ does not articulate specific, clear,  
5 and convincing reasons to reject a claimant's symptoms, the corresponding  
6 limitations must be included in the RFC.<sup>17</sup>

---

12 <sup>14</sup> *Ghanim v. Colvin*, 763 F.3d 1154, 1163 (9th Cir. 2014) (quoting *Lingenfelter*, 504  
13 F.3d at 1036).

14 <sup>15</sup> *Id.* (quoting *Lester v. Chater*, 81 F.3d 821, 834 (9th Cir. 1995), and *Thomas v.*  
15 *Barnhart*, 278 F.3d 947, 958 (9th Cir. 2002) (requiring the ALJ to sufficiently  
16 explain why he discounted claimant's symptom claims)).

17 <sup>16</sup> *Garrison v. Colvin*, 759 F.3d 995, 1015 (9th Cir. 2014) (quoting *Moore v. Comm'r*  
18 *of Soc. Sec. Admin.*, 278 F.3d 920, 924 (9th Cir. 2002)).

19 <sup>17</sup> *Lingenfelter*, 504 F.3d at 1035 ("[T]he ALJ failed to provide clear and convincing  
20 reasons for finding Lingenfelter's alleged pain and symptoms not credible, and  
21 therefore was required to include these limitations in his assessment of  
22 Lingenfelter's RFC.").

2. Plaintiff's Testimony

On February 10, 2020, Plaintiff appeared with her attorney by video before ALJ Michael Blanton.<sup>18</sup> A vocational expert, Michael Swanson, also testified.<sup>19</sup> Plaintiff testified that she was 32 years old and had a bachelor's degree.<sup>20</sup> She said that she had completed all but one year of courses at a community college when she was young and just went for a year.<sup>21</sup> She attended Shoreline Community College periodically from 2017 to 2018 and then Central Washington [University] from 2018 to 2019.<sup>22</sup> She dropped from full-time to part-time for two quarters because of physical symptoms caused by stress.<sup>23</sup> She said her coursework at Central Washington College was online and she almost did not graduate due to excessive absences.<sup>24</sup>

Plaintiff said that in 2016, she left her job for a new one because of family obligations and she wanted to work closer to home, but was stressed with the new

---

<sup>18</sup> AR 38-64.

<sup>19</sup> *Id.*

<sup>20</sup> AR 44.

<sup>21</sup> *Id.*

<sup>22</sup> AR 45.

<sup>23</sup> *Id.*

<sup>24</sup> AR 46.



1 job and decided to return to school instead of working.<sup>25</sup> She was scared of leaving  
2 her house and she worried that something might happen but had no specific fear.<sup>26</sup>  
3 When she is very anxious, she will not complete tasks and will go and be alone.<sup>27</sup> She  
4 said she has bad days and that on those days she is irritable and will isolate herself.<sup>28</sup>  
5 She said that she worried she was not mentally ready to work when she finished  
6 school.<sup>29</sup> She said that she called in sick for half of the time.<sup>30</sup> Plaintiff said that  
7 medication helped with her depression but did not help with her anxiety long-term.<sup>31</sup>  
8 She went back to work in January 2020, and missed eight to ten days since she  
9 started.<sup>32</sup>

10 Plaintiff testified that in 2010 and 2011 when working at Walmart she was a  
11 cashier and a customer service supervisor.<sup>33</sup> Plaintiff said she worked for the  
12 Chelan Public Hospital as a material supply purchasing and stocking employee  
13

---

14 <sup>25</sup> AR 47.

15 <sup>26</sup> AR 48.

16 <sup>27</sup> AR 49.

17 <sup>28</sup> AR 50.

18 <sup>29</sup> AR 51.

19 <sup>30</sup> *Id.*

20 <sup>31</sup> AR 52.

21 <sup>32</sup> AR 53-54.

22 <sup>33</sup> AR 54.

1 and that she delivered and stocked items and did the job for three years.<sup>34</sup> She left  
2 the stock clerk job because of anxiety, it was a long commute, and her boss behaved  
3 inappropriately and harassed her.<sup>35</sup> She reported the harassment, but it was not  
4 stopped.<sup>36</sup> She said she also worked in a seasonal position at a resort.<sup>37</sup> Plaintiff  
5 said she cannot work due to a combination of mostly mental health and gastric  
6 issues caused by anxiety.<sup>38</sup> She said she was taking four medications for her  
7 mental health issues: citalopram, clonazepam, Lamictal, and Wellbutrin.<sup>39</sup> She  
8 said that for her gastric issues she takes nortriptyline.<sup>40</sup>

9 The VE testified that Plaintiff's past work was as a cashier, a floor manager,  
10 and a stock clerk.<sup>41</sup> Plaintiff testified that when she was a stock clerk she had  
11 contact with coworkers.<sup>42</sup> The ALJ posed a hypothetical of an individual who could  
12 not work with the public or in tandem with co-workers and the VE testified that  
13

---

14 <sup>34</sup> AR 55.

15 <sup>35</sup> AR 55-56.

16 <sup>36</sup> AR 56.

17 <sup>37</sup> *Id.*

18 <sup>38</sup> AR 56-57.

19 <sup>39</sup> AR 56-57.

20 <sup>40</sup> AR 58.

21 <sup>41</sup> AR 60-61.

22 <sup>42</sup> AR 61.

1 they could not perform past work but could work as a warehouse worker, a laundry  
2 worker, a mailroom clerk, or a routing clerk.<sup>43</sup> When asked if the identified jobs  
3 could be performed if the individual were limited to simple, routine tasks the VE  
4 said they could.<sup>44</sup> The VE testified that the tolerance for absences was 1 day per  
5 month.<sup>45</sup>

6 On June 13, 2022, Plaintiff and her attorney appeared for a hearing before  
7 ALJ Deborah Van Vleck.<sup>46</sup> Plaintiff testified and a vocational expert, Kent Granat,  
8 testified.<sup>47</sup> Plaintiff waived her right to a video or in-person hearing and agreed to  
9 have her hearing by telephone.<sup>48</sup> Plaintiff testified that she was 34 years old, had  
10 been married for nine years, and had two children aged 15 and 9.<sup>49</sup> She said she  
11 weighed 245 and that her weight had fluctuated between 210 and 280 after she  
12 had surgery for endometriosis.<sup>50</sup> She said she is right-handed, has a driver's  
13  
14

---

15 <sup>43</sup> AR 60-62.

16 <sup>44</sup> AR 62.

17 <sup>45</sup> *Id.*

18 <sup>46</sup> AR 65-104.

19 <sup>47</sup> *Id.*

20 <sup>48</sup> AR 70.

21 <sup>49</sup> AR 75.

22 <sup>50</sup> AR 76.

1 license, and has a bachelor's degree in social work.<sup>51</sup> She said she obtained an  
2 associate's degree from Shoreline Community College in 2018, and then  
3 transferred to Central Washington University and earned a bachelor's degree in  
4 2019.<sup>52</sup> She also later took classes in medical billing but stopped due to stress.<sup>53</sup>

5 Plaintiff said she lived in a home for the last six years and has no physical  
6 issues but mentally has difficulty leaving home.<sup>54</sup> She said she had that issue for  
7 years and that all her recent college classes were online.<sup>55</sup> She said she received  
8 unemployment benefits until July 2020.<sup>56</sup> She said she is covered by her husband's  
9 insurance.<sup>57</sup> Plaintiff testified that she was hired by the post office in May 2020,  
10 and worked for a month as a clerk and left because she was offered a job with  
11 Okanogan Behavioral Health.<sup>58</sup> Plaintiff said that while working at the post office  
12 she had difficulty interacting with customers but did not miss any workdays during  
13  
14

---

15 <sup>51</sup> AR 76-77.

16 <sup>52</sup> AR 77.

17 <sup>53</sup> *Id.*

18 <sup>54</sup> AR 79.

19 <sup>55</sup> *Id.*

20 <sup>56</sup> AR 80.

21 <sup>57</sup> AR 81.

22 <sup>58</sup> *Id.*

1 the time she was working there.<sup>59</sup> She said she began working for Okanogan  
2 Behavioral Health in December 2019, and last worked there in June 2021.<sup>60</sup> She  
3 said that in June 2021, she gave two-weeks notice on the advice of her husband.<sup>61</sup>  
4 She had two jobs when there.<sup>62</sup> Plaintiff said that as a mental health case manager  
5 from December 2019 to May 2020, she met students, evaluated them, and offered  
6 counseling until they saw a therapist.<sup>63</sup> She said that from June 2020 to June 2021  
7 she worked as a crisis case manager and hospital liaison.<sup>64</sup> As a crisis manager, she  
8 was evaluating crisis clients and contacting their families to plan a safe place for  
9 them after hospital discharge.<sup>65</sup> Plaintiff said that from 2014 to 2017 she worked at  
10 Chelan Public Hospital as a supply material and supply tech and that she both  
11 ordered products and delivered them to doctors and nurses, and that she delivered  
12 for 80 percent of time and ordered for 20 percent of the time.<sup>66</sup> She said she left  
13  
14

---

15 <sup>59</sup> AR 82.

16 <sup>60</sup> AR 82-83.

17 <sup>61</sup> AR 83.

18 <sup>62</sup> *Id.*

19 <sup>63</sup> *Id.*

20 <sup>64</sup> AR 83-84.

21 <sup>65</sup> AR 84.

22 <sup>66</sup> AR 84-85.

1 that job because it was stressful and she wanted to pursue a college degree.<sup>67</sup>

2 Plaintiff said that at Walmart she was a customer service supervisor and that she  
3 left the job when she sent on maternity leave and did not return.<sup>68</sup>

4 When asked if she could return to her jobs as a stockroom clerk or a  
5 department supervisor, Plaintiff testified that she could not because just the  
6 thought of leaving home would make her sick due to anxiety.<sup>69</sup> When asked why  
7 she picked a socially demanding job, Plaintiff said she did not consider how  
8 demanding it would be.<sup>70</sup> She was asked why she did not want to work a job  
9 remotely and she responded that when she worked from home during Covid, she  
10 occasionally had to do zoom meetings and thought that most remote jobs would  
11 require occasional zoom meetings.<sup>71</sup> She said she gets anxious at the thought of  
12 having interactions with anyone at all.<sup>72</sup> Plaintiff said she had only mental  
13 impairments, and no physical ones.<sup>73</sup> She said she was treating with a nurse

---

16 <sup>67</sup> AR 85.

17 <sup>68</sup> AR 86.

18 <sup>69</sup> AR 86-87.

19 <sup>70</sup> AR 87.

20 <sup>71</sup> AR 88.

21 <sup>72</sup> *Id.*

22 <sup>73</sup> AR 88-89.

1 practitioner and currently taking clonazepam, Abilify, and nortriptyline, none of  
2 which gave her side effects.<sup>74</sup> She felt that the medication helped most days.<sup>75</sup>

3 Plaintiff said she has no limitations in standing, walking, sitting, lifting,  
4 carrying, or using her hands, and can bathe and dress without help.<sup>76</sup> She said that  
5 four of seven days she does not want to get out of bed.<sup>77</sup> Plaintiff said she has not  
6 been assigned a counselor because she lives in a rural place and she does not want  
7 to get therapy from someone she worked with in the past.<sup>78</sup> She said her husband  
8 goes everywhere with her and she does not go out alone or attend her children's  
9 events.<sup>79</sup> She said she does not do chores and they go undone and that she has no  
10 friends.<sup>80</sup> She said her hobbies are reading and baking.<sup>81</sup> She flew to California to  
11 her grandfather's funeral for four days the prior January.<sup>82</sup> She said she has two  
12  
13

---

14 <sup>74</sup> *Id.*

15 <sup>75</sup> AR 90.

16 <sup>76</sup> *Id.*

17 <sup>77</sup> *Id.*

18 <sup>78</sup> AR 91.

19 <sup>79</sup> AR 92.

20 <sup>80</sup> AR 93.

21 <sup>81</sup> AR 94.

22 <sup>82</sup> *Id.*

1 cats and a dog and that she and her husband care for them.<sup>83</sup> She went to one or  
2 two movies from 2017 to 2020 and none thereafter because they were all on TV.<sup>84</sup>  
3 She gets up every day and gets her kids ready for school and her estranged  
4 husband picks them up and brings them to school.<sup>85</sup> She waits for them to return  
5 and sometimes makes meals.<sup>86</sup>

6 Plaintiff said that before she was laid off during Covid her mental health  
7 was declining.<sup>87</sup> She said that before Covid she missed one or two days of work in  
8 each two-week pay period.<sup>88</sup> If Covid had not happened she would not have been  
9 able to keep her job.<sup>89</sup> She was taking time off due to anxiety and depression, which  
10 was severe then.<sup>90</sup> She said her main symptom is anxiety and that she gets fidgety  
11 and becomes panicked.<sup>91</sup> When she has people coming over she will get ill with  
12  
13

---

14 <sup>83</sup> AR 95.

15 <sup>84</sup> *Id.*

16 <sup>85</sup> AR 96.

17 <sup>86</sup> *Id.*

18 <sup>87</sup> AR 97.

19 <sup>88</sup> AR 97.

20 <sup>89</sup> *Id.*

21 <sup>90</sup> AR 98.

22 <sup>91</sup> AR 99.



1 nausea and diarrhea.<sup>92</sup> She said that the depression makes her have suicidal  
2 ideations.<sup>93</sup>

3 The VE testified that Plaintiff's past work was mail clerk, social service aide,  
4 a stockroom clerk, and a department supervisor.<sup>94</sup> The VE testified that the  
5 position of Social Worker was sedentary and skilled with an SVP of 7.<sup>95</sup>

6 Given a hypothetical of an individual who could perform simple, routine, and  
7 repetitive tasks that are not production paced, have occasional interaction with  
8 supervisors and co-workers and never work with the public, the VE stated that  
9 past work was precluded.<sup>96</sup> The VE said the individual could perform work as a  
10 floor cleaner, a janitor, a hand launderer, a copy machine operator, or a copy  
11 examiner.<sup>97</sup> The VE said the tolerance for absences would be 1 or 2 days a month  
12 and the tolerance for being off-task would be 15 percent.<sup>98</sup> The VE said there were  
13 no unskilled jobs that allowed working from home in substantial numbers.<sup>99</sup>

---

14  
15 <sup>92</sup> *Id.*

16 <sup>93</sup> AR 100.

17 <sup>94</sup> AR 82, 84, 85,86.

18 <sup>95</sup> AR 87.

19 <sup>96</sup> AR 101-102.

20 <sup>97</sup> AR 102.

21 <sup>98</sup> AR 103.

22 <sup>99</sup> AR 104.

1           3.     The Medical Record

2           On October 5, 2020, Plaintiff presented to PA-C Nancy Espelin with  
3 concerns regarding anxiety.<sup>100</sup> Plaintiff reported that she had been hospitalized at  
4 Foothills Psychiatric in August and had been given gabapentin, clonazepam, and  
5 Latuda for bipolar but had stopped the medication because it made her  
6 aggressive.<sup>101</sup> She said she had been on clonazepam and intermittently taken  
7 another drug but her clinic was closing and she would need to find a new provider  
8 to replace PA-C Victoria Lopez.<sup>102</sup> Plaintiff said she was working from home and  
9 was hesitant to go to therapy because people talk but that she was going through a  
10 divorce, had broken her foot and her daughter had moved out so she was having  
11 trouble sleeping.<sup>103</sup> On mental status examination, she was calm and cooperative  
12 with normal speech, no hallucinations, normal attention and concentration, normal  
13 intelligence, happy mood and affect, intact insight and thought process and normal  
14 thought content.<sup>104</sup> PA Espelin referred Plaintiff to ARNP Katherine Kirner for  
15 psychiatry.<sup>105</sup>

---

16  
17 <sup>100</sup> AR 887.

18 <sup>101</sup> AR 889.

19 <sup>102</sup> *Id.*

20 <sup>103</sup> *Id.*

21 <sup>104</sup> *Id.*

22 <sup>105</sup> AR 892.

1 On November 24, 2020, Plaintiff had a follow-up appointment for medication  
2 management with PA-C Roy Huffstetler.<sup>106</sup> Plaintiff reported that she had no  
3 difficulty filling out medical forms, caring for herself, or paying for basics like food  
4 and housing.<sup>107</sup> She said her stress level was low and that she was not in crisis but  
5 wanted to reestablish care.<sup>108</sup> He noted that she had an appointment with  
6 behavioral health in 3 weeks and with a psychiatric nurse practitioner in six  
7 weeks.<sup>109</sup>

8 On December 4, 2020, Plaintiff presented to PA Huffstetler.<sup>110</sup> Plaintiff  
9 reported that she had started taking clonazepam and gabapentin a week prior and  
10 that it had reduced her anxiety and helped her sleep but she was still having  
11 depressive symptoms.<sup>111</sup> On December 15, 2020, Plaintiff returned to PA  
12 Huffstetler and asked for a change in medication.<sup>112</sup> Her olanzapine was increased  
13  
14  
15

---

16 <sup>106</sup> AR 895.

17 <sup>107</sup> AR 896.

18 <sup>108</sup> AR 896-897.

19 <sup>109</sup> AR 898.

20 <sup>110</sup> AR 900.

21 <sup>111</sup> AR 902.

22 <sup>112</sup> AR 905-906.

1 from 5mg to 10mg daily.<sup>113</sup> On December 17, 2020, Plaintiff advised PA Huffstetler  
2 that she was stressed due to an upcoming custody hearing.<sup>114</sup>

3 On December 29, 2020, Plaintiff presented to ARNP Katherine Kirner.<sup>115</sup>  
4 Plaintiff reported that she experienced depression as a teen when her parents  
5 divorced and that in August her boss had helped her get admitted for a short  
6 inpatient stay at a psychiatric hospital in August when she had an affair and was  
7 having racing thoughts.<sup>116</sup> Presently, Plaintiff was stressed due to a medical  
8 diagnosis of endometriosis, a filing for bankruptcy, and a pending divorce.<sup>117</sup> On  
9 examination, Plaintiff was pleasant and cooperative, oriented, had normal speech,  
10 had no hallucinations and had normal attention and concentration.<sup>118</sup> Plaintiff had  
11 a euthymic mood and happy affect, as well as average intelligence, intact  
12 judgment, normal thought content and motor activity, and impaired insight.<sup>119</sup> At a  
13  
14  
15

---

16 <sup>113</sup> AR 907.

17 <sup>114</sup> AR 911.

18 <sup>115</sup> AR 912.

19 <sup>116</sup> AR 914.

20 <sup>117</sup> *Id.*

21 <sup>118</sup> AR 915.

22 <sup>119</sup> *Id.*

1 December 30, 2020, appointment with PA Huffstetler he noted that on examination  
2 Plaintiff was cooperative with normal speech and normal concentration.<sup>120</sup>

3 On January 7, 2021, Plaintiff was seen by LMHC Kelcie Eddy.<sup>121</sup> On  
4 examination LMHC Eddy noted that Plaintiff was well-groomed and cooperative;  
5 had normal speech and no hallucinations; was oriented; had normal attention and  
6 concentration; had average intelligence and intact memory; had a euthymic mood  
7 and an affect congruent to mood and anxiousness; had intact insight, judgment,  
8 and thought processes; and had normal thought content.<sup>122</sup> Plaintiff endorsed  
9 hopeless and helpless thoughts and of being better off dead in the context of severe  
10 anxiety but had no suicidal plan or intent.<sup>123</sup> Plaintiff reported severe depression,  
11 difficulty concentrating, excess worry, high irritability, muscle tension, headaches,  
12 and restlessness.<sup>124</sup>

13 On January 19, 2021, Plaintiff presented to ARNP Kirner.<sup>125</sup> Plaintiff  
14 reported anxiety and depression in the context of major life stressors and family  
15  
16

---

17 <sup>120</sup> AR 922.

18 <sup>121</sup> AR 924.

19 <sup>122</sup> AR 926.

20 <sup>123</sup> *Id.*

21 <sup>124</sup> *Id.*

22 <sup>125</sup> AR 929.

1 problems.<sup>126</sup> She reported that she had days she had anxiety about work but had  
2 not missed any days.<sup>127</sup> On examination, her appearance behavior and speech were  
3 normal; she had no hallucinations, concentration was normal and memory was  
4 intact; mood was euthymic and affect was pleasant and congruent; insight was  
5 impaired; and judgment, thought process, thought content, and motor activity were  
6 intact.<sup>128</sup> At a February 9, 2021 follow-up with ARNP Kirner, Plaintiff reported a  
7 worse mood that interfered with household activities, sleep, and work.<sup>129</sup> On  
8 examination, Plaintiff was well-groomed and appeared fatigued; had pleasant  
9 behavior, normal speech, normal perception, and normal attention and  
10 concentration; and had intact memory.<sup>130</sup> Plaintiff's mood was sad, and her affect  
11 was congruent; her insight was impaired; and her thought content, thought  
12 process, and judgment were intact.<sup>131</sup> Plaintiff reported suicidal ideations but  
13 denied any intent.<sup>132</sup>

---

16 <sup>126</sup> AR 931.

17 <sup>127</sup> *Id.*

18 <sup>128</sup> *Id.*

19 <sup>129</sup> AR 945.

20 <sup>130</sup> *Id.*

21 <sup>131</sup> *Id.*

22 <sup>132</sup> *Id.*

1           On May 6, 2021, Plaintiff presented to ARNP Kirner for follow-up for PTSD  
2 and bipolar disorder.<sup>133</sup> Plaintiff reported anxiety due to a return to work and  
3 stated that she was looking for other positions.<sup>134</sup> On examination, Plaintiff was in  
4 no acute distress, Plaintiff was pleasant with normal eye contact, speech, attention,  
5 concentration, and memory.<sup>135</sup> Her affect was congruent to mood, her insight was  
6 impaired, judgment was intact, and thought content and thought process were  
7 normal.<sup>136</sup>

8           On June 8, 2021, Plaintiff presented to ARNP Kirner for follow-up for PTSD  
9 and bipolar disorder.<sup>137</sup> Plaintiff reported that she was dealing with major life  
10 stressors and relationship issues.<sup>138</sup> On examination, Plaintiff was in no acute  
11 distress, Plaintiff was pleasant with normal eye contact, speech, attention,  
12 concentration, and memory.<sup>139</sup> Her affect was congruent to mood, her insight was

---

16 <sup>133</sup> AR 1356.

17 <sup>134</sup> AR 1359.

18 <sup>135</sup> *Id.*

19 <sup>136</sup> *Id.*

20 <sup>137</sup> AR 1350.

21 <sup>138</sup> AR 1353.

22 <sup>139</sup> *Id.*

1 impaired, judgment was intact, and thought content and thought process were  
2 normal.<sup>140</sup>

3 On July 6, 2021, Plaintiff presented to ARNP Kirner.<sup>141</sup> Plaintiff was  
4 maintaining functioning but was having trouble with sleep and decreased  
5 energy.<sup>142</sup> On examination, Plaintiff was in no acute distress, Plaintiff was  
6 pleasant with normal eye contact, speech, attention, concentration, and memory.<sup>143</sup>  
7 Her affect was congruent to mood, her insight was impaired, judgment was intact,  
8 and thought content and thought process were normal.<sup>144</sup>

9 On August 3, 2021, Plaintiff presented to ARNP Kirner.<sup>145</sup> She was  
10 functioning well but had low energy.<sup>146</sup> On examination, Plaintiff was in no acute  
11 distress, Plaintiff was pleasant with normal eye contact, speech, attention,  
12 concentration, and memory.<sup>147</sup> Her affect was congruent to mood, her insight was

---

15 <sup>140</sup> *Id.*

16 <sup>141</sup> AR 1345.

17 <sup>142</sup> AR 1348.

18 <sup>143</sup> *Id.*

19 <sup>144</sup> *Id.*

20 <sup>145</sup> AR 1341.

21 <sup>146</sup> AR 1343.

22 <sup>147</sup> AR 1344.



1 impaired, judgment was intact, and thought content and thought process were  
2 normal.<sup>148</sup>

3 On October 26, 2021, Plaintiff presented to ARNP Kirner for follow-up for  
4 PTSD and bipolar disorder.<sup>149</sup> On examination, Plaintiff was in no acute distress,  
5 Plaintiff was pleasant with normal eye contact, speech, attention, concentration,  
6 and memory.<sup>150</sup> Her mood was apathetic, her affect was tearful, her insight was  
7 impaired, judgment, was intact, and thought content and thought process were  
8 normal.<sup>151</sup>

9 On November 17, 2021, Plaintiff presented to ARNP Kirner.<sup>152</sup> Plaintiff  
10 reported she felt more anxious and stressed and was struggling with a decision to  
11 return to school.<sup>153</sup> On examination, Plaintiff was in no acute distress, Plaintiff was  
12 pleasant with normal eye contact, speech, attention, concentration, and memory.<sup>154</sup>  
13 Her mood was apathetic, her affect was tearful, her insight was impaired,  
14  
15

---

16 <sup>148</sup> *Id.*

17 <sup>149</sup> AR 1331.

18 <sup>150</sup> AR 1334.

19 <sup>151</sup> *Id.*

20 <sup>152</sup> AR 1326.

21 <sup>153</sup> AR 1328.

22 <sup>154</sup> AR 1329.

1 judgment was intact, and thought content and thought process were normal.<sup>155</sup> She  
2 did not want to return to counseling.<sup>156</sup> ARNP Kirner noted that her SSRI had  
3 been stopped in August and she thought Plaintiff was becoming depressive.<sup>157</sup>

4 On December 2, 2021, Plaintiff presented to ARNP Kirner for follow-up for  
5 PTSD, and bipolar disorder.<sup>158</sup> On examination, Plaintiff was in no acute distress,  
6 Plaintiff was pleasant with normal eye contact, speech, attention, concentration,  
7 and memory.<sup>159</sup> Her mood was apathetic, her insight was impaired, judgment was  
8 intact, and thought content and thought process were normal.<sup>160</sup>

9 On December 23, 2021, Plaintiff presented to ARNP Kirner for follow-up for  
10 PTSD and bipolar disorder.<sup>161</sup> On examination, Plaintiff was in no acute distress,  
11 Plaintiff was pleasant with normal eye contact, speech, attention, concentration,  
12  
13  
14  
15

---

16 <sup>155</sup> *Id.*

17 <sup>156</sup> *Id.*

18 <sup>157</sup> *Id.*

19 <sup>158</sup> AR 1321.

20 <sup>159</sup> AR 1324.

21 <sup>160</sup> *Id.*

22 <sup>161</sup> AR 1316.

1 and memory.<sup>162</sup> Her mood was apathetic, her insight was impaired, judgment was  
2 intact, and thought content and thought process were normal.<sup>163</sup>

3 On February 2, 2022, Plaintiff presented to ARNP Kirner for follow-up for  
4 PTSD and bipolar disorder.<sup>164</sup> On examination, Plaintiff was in no acute distress,  
5 Plaintiff was pleasant with normal eye contact, speech, attention, concentration,  
6 and memory.<sup>165</sup> She had a happy mood and affect, intact thought content and  
7 thought process, and no suicidal ideations.<sup>166</sup>

8 On March 17, 2022, Plaintiff presented to ARNP Kirner for follow up for  
9 generalized anxiety disorder.<sup>167</sup> Plaintiff was worried that she would fail a college  
10 course.<sup>168</sup> On examination, Plaintiff was in no acute distress, Plaintiff was pleasant  
11 with normal eye contact, speech, attention, concentration, and memory.<sup>169</sup> She had  
12 a happy mood and affect, intact thought content and thought process, and no  
13  
14

---

15 <sup>162</sup> AR1319.

16 <sup>163</sup> *Id.*

17 <sup>164</sup> AR 1301.

18 <sup>165</sup> AR 1304.

19 <sup>166</sup> *Id.*

20 <sup>167</sup> AR 1295.

21 <sup>168</sup> AR 1298.

22 <sup>169</sup> *Id.*

1 suicidal ideations.<sup>170</sup> Plaintiff was worried about school and not being able to keep  
2 an A grade.<sup>171</sup>

3 On April 14, 2022, Plaintiff presented to ARNP Katherine Kirner for follow-  
4 up for PTSD and bipolar disorder.<sup>172</sup> On mental status examination, Plaintiff was  
5 pleasant with normal eye contact, speech, attention, concentration, and memory.<sup>173</sup>  
6 She had a happy mood and affect, intact thought content and thought process, and  
7 no suicidal ideations.<sup>174</sup> ARNP Kirner noted that Plaintiff's symptoms were  
8 relatively well-controlled with mild to moderate symptoms despite situational  
9 stressors.<sup>175</sup> ARNP Kirner noted that Plaintiff was ambivalent about counseling  
10 and declined to engage with Behavioral Health Services.<sup>176</sup>

11 4. The ALJ's Findings

12 The ALJ found Plaintiff's statements concerning the intensity, persistence,  
13 and limiting effects of the symptoms of her medically determinable impairments  
14  
15

---

16 <sup>170</sup> *Id.*

17 <sup>171</sup> AR 1304.

18 <sup>172</sup> AR 1290.

19 <sup>173</sup> AR 1293.

20 <sup>174</sup> *Id.*

21 <sup>175</sup> *Id.*

22 <sup>176</sup> AR 1294.

1 not entirely consistent with the medical evidence and other evidence in the  
2 record.<sup>177</sup>

3 With regard to Plaintiff's issues with her mental health, the ALJ articulated  
4 her reasoning as follows:

5 Regarding the claimant's mental health impairment, the record  
6 indicates the claimant complained of depression, anxiety, panic attacks,  
7 social anxiety, high irritability, major life stressors, intermittent  
8 suicidal ideations, decreased energy, poor concentration, decreased  
9 effectiveness/productivity, and insomnia (Exs. 1F/20, 25, 44; 2F/11, 44,  
10 71; 12F/4, 9, 39). However, despite these allegations, the claimant was  
11 generally noted on mental status examination to have a normal mood  
12 and affect with some instances of anxiousness (Exs. 1F/22, 27, 35, 55;  
13 2F/11, 35, 63, 78; 3F/4; 11F/5; 12F/4, 9, 74). She also had normal  
14 speech, full orientation, adequate fund of knowledge, average  
15 intelligence, logical and organized thought processes, unremarkable  
16 thought content, grossly intact memory, good attention and  
17 concentration, and fair/intact insight and judgment (Exs. 1F/22, 27;  
18 2F/11, 63, 78; 3F/9; 5F/80, 84, 90, 134; 9F/22; 11F/5, 10; 12F/4, 9, 55,  
19 70). The claimant was prescribed medication, with improvement in her  
20 symptoms (Exs. 1F/20, 21, 23, 26, 31; 2F/17, 50, 61, 71; 3F/7, 14; 9F/22,  
21 23). The claimant had one self-admitted inpatient psychiatric  
22 admission in August 2020 for suicidal thoughts, but she left against  
23 medical advice after one week due to feeling things were unstable at  
home (Exs. 6F/5; 9F/17, 34). She actively denied psychological  
symptoms on the record, including delusions, visual/auditory  
hallucinations, and suicidal ideation or homicidal ideations (Exs. 1F/22;  
5F/47, 80; 12F/4, 15, 30, 45, 55). In addition, more recent records  
showed the claimant reported a big improvement in her overall mood  
and stability and her symptoms were relatively well controlled with  
medication (Ex. 12F/4, 15).<sup>178</sup>

The ALJ went on reason further that:

---

21 <sup>177</sup> AR 25.

22 <sup>178</sup> AR 25.

1 As for the claimant's statements about the intensity, persistence, and  
2 limiting effects of his or her symptoms, they are inconsistent because  
3 the claimant reported her symptoms improved and were relatively well  
4 controlled with medications (Ex. 11F/4, 15, 34). Throughout the  
5 relevant period the claimant was able to attend school online, obtain  
6 two degrees, and work a detailed job full-time, all facts that supporting  
7 the finding she possesses the capacity to perform simple work. In 2017  
8 the claimant reported she was taking classes full-time and working full-  
9 time (Ex. 1F/38, 44). She reported doing well when she was taking  
10 college classes (Ex. 1F/20). In 2018, she received her associates degree  
11 in General Studies at Shoreline Community College (Testimony).  
12 Thereafter, in June 2019 she received a bachelor's degree in Social  
13 Work from Central Washington University (Testimony). The claimant  
14 worked socially demanding and detailed oriented task jobs at Okanogan  
15 Behavioral Healthcare (Testimony). She also took classes for medical  
16 coding and billing for at least six months and reported doing well (Ex.  
17 12F/34, 39, 45; Testimony). She reported searching for jobs, going  
18 through interviews, and that she believed she could perform an office  
19 position, supporting the conclusion she has possessed to the ability to  
20 sustain the mental demands of work despite her mental health  
21 symptoms (Ex. 12F/35, 45, particularly if she were to select employment  
22 within the residual functional capacity assessed. In addition, the  
23 claimant was generally able to perform activities of daily living without  
significant difficulty.<sup>179</sup>

#### 14 4. Analysis

15 The ALJ's reasoning describes three instances in which she found Plaintiff's  
16 subjective allegations to be at odds with the record: that Plaintiff was able to  
17 engage in activities of daily living and work in stressful and demanding jobs during  
18 the relevant time period, that Plaintiff's medical record indicates that she had  
19 predominantly benign findings on examination in the relevant time period, and  
20 that the medical record indicates that even Plaintiff's moderate symptoms appear

---

22 <sup>179</sup> AR 26.

1 to have been successfully treated with medication during the latter part of the  
2 relevant period. Throughout her brief, Plaintiff argues that the ALJ's reasoning  
3 fails to take into account that Plaintiff suffered from anxiety when she left home.

4 *a. Plaintiff's activities*

5 The ALJ considered that Plaintiff's activities and abilities were inconsistent  
6 with her symptom reports.<sup>180</sup> If a claimant can spend a substantial part of the day  
7 engaged in pursuits involving the performance of work-related functions, the ALJ  
8 may find these activities inconsistent with the reported disabling symptoms.<sup>181</sup>  
9 Here, the ALJ highlighted that Plaintiff's activities included attending school  
10 online, obtaining two degrees, working at a detailed job full-time, and attending job  
11 interviews.<sup>182</sup> The ALJ highlighted that Plaintiff believed that she could perform  
12 an office position, and that this supports the conclusion that she could perform  
13 simple work.<sup>183</sup>

14 The Court finds no error in the ALJ's reasoning regarding Plaintiff's ability  
15 to work during the relevant period in several socially demanding jobs. It was the  
16 testimony of Plaintiff that she voluntarily left her job in 2016 when she decided to

---

17  
18 <sup>180</sup> AR 26-27.

19 <sup>181</sup> *Molina v. Astrue*, 674 F.3d 1104, 1113 (9th Cir. 2012) (superseded in part on  
20 other grounds by statute).

21 <sup>182</sup> AR 26.

22 <sup>183</sup> *Id.*

1 return to school full-time.<sup>184</sup> Between 2017 and 2019, Plaintiff attended Shoreline  
2 Community College and then transferred to Central Washington University, where  
3 she obtained her bachelor's in social work.<sup>185</sup> While Plaintiff asserts that she was  
4 forced to take part-time classes due to stress and almost did not graduate, the  
5 record belies that assertion. Plaintiff completed a four-year degree in less than  
6 four years and her reports to her medical providers during that time was that she  
7 was stressed because she wanted to keep an A average.<sup>186</sup> Even if the Court credits  
8 Plaintiff's testimony as true that for one semester she was stressed and needed to  
9 take fewer classes, she made up for that by later taking more classes, or made up  
10 for that in some other way because she graduated on schedule, if not ahead of it.

11 Similarly, the record does not support Plaintiff's assertions that her  
12 difficulty with performing the jobs she held as a postal employee, mental health  
13 case worker, or crisis case manager is indicative of an inability to engage in the  
14 simple, routine, repetitive work provided for by the ALJ's formulated RFC.  
15 Plaintiff described her position as a postal worker as requiring her to have frequent  
16 to constant contact with the public and despite her assertions that she had  
17  
18  
19

---

20 <sup>184</sup> AR 47.

21 <sup>185</sup> AR 45.

22 <sup>186</sup> AR 1304.



1 difficulty with that contact she also testified that he did not miss any time from  
2 that job while she performed it and left it because she was offered a better job.<sup>187</sup>

3 From June 2020 through June 2021, Plaintiff worked as a mental health  
4 case manager and a crisis case manager, and the ALJ classified the positions as  
5 social worker (DOT 195.107-010).<sup>188</sup> Pursuant to the Dictionary of Occupational  
6 titles, the fifth digit in a DOT code is for the amount of and nature of interaction  
7 with “people” and ranges from a high of 0 to a low of 8. The higher the number, the  
8 more frequent and intensive interaction would be. A fifth digit people code of “0”  
9 denotes the highest degree of contact with others and is described as follows:  
10 “Mentoring: Dealing with individuals in terms of their total personality in order to  
11 advise, counsel, and/or guide them with regard to problems that may be resolved by  
12 legal, scientific, clinical, spiritual, and/or other professional principals.”<sup>189</sup> At her  
13 January 19, 2021 appointment with ARNP Kirner, Plaintiff stated that she had not  
14 missed any time from that job.<sup>190</sup>

15 While Plaintiff avers that she was unable to continue in such a highly  
16 stressful position and to endure public contact, she was not fired for cause nor was  
17 she advised by any health care provider to cease performing that job. In January  
18

---

19 <sup>187</sup> AR 81-82.

20 <sup>188</sup> AR 87.

21 <sup>189</sup>

22 <sup>190</sup> AR 931.

1 2021, when she had been performing the job for seven months, she told ARNP  
2 Kerner that she had missed no time. She testified that she left the job because she  
3 consulted her husband and they decided that she should take classes in medical  
4 billing.<sup>191</sup> Given Plaintiff's ability to work for more than a month as a postal  
5 counter worker with constant interaction with the public without taking time off,  
6 and her ability to work in a highly stressful position for one year that required  
7 frequent contact with individuals in crisis, the ALJ's reasoning that Plaintiff was  
8 capable of performing simple, routine work requiring only occasional contact with  
9 co-workers and no contact with the public is supported by the record.

10 *b. Objective mental-health findings*

11 The ALJ found that the objective mental status findings in the record are  
12 also not consistent with chronic debilitating symptoms.<sup>192</sup> Objective medical  
13 evidence—signs, laboratory findings, or both—is a relevant factor for the ALJ to  
14 consider when assessing a claimant's symptoms.<sup>193</sup> Here, the medical record also  
15 supports the ALJ's reasoning. The treatment notes from Family Health Centers,  
16 where Plaintiff was treated from 2020 through 2022, show primarily benign  
17 findings on mental status examinations. While there was a brief period during  
18

---

19 <sup>191</sup> AR 83.

20 <sup>192</sup> AR 25.

21 <sup>193</sup> 20 C.F.R. § 416.902(k); 3 Soc. Sec. Law & Prac. § 36:26, Consideration of  
22 objective medical evidence (2019).  
23

1 which Plaintiff presented with suicidal ideation, she did not have intent and her  
2 symptoms quickly improved with medication.

3 When she was assessed by PA Huffstetler, Plaintiff did not have difficulty  
4 filling out medical forms and reported that she had no difficulty caring for  
5 herself.<sup>194</sup> Throughout her treatment, Plaintiff presented with normal speech, no  
6 hallucinations, normal intelligence, and normal thought content.<sup>195</sup> At several  
7 appointments, Plaintiff reported symptoms to her medical providers which were  
8 inconsistent with the objective findings. For example, on January 7, 2021, Plaintiff  
9 reported to LMHC Kelsie that she was experiencing severe depression and  
10 irritability, but on examination she was cooperative and had a euthymic mood.<sup>196</sup>

11 Moreover, Plaintiff's treating source, ARNP Kirner, opined that even during  
12 a period of significant situational stress, Plaintiff's symptoms were mild to  
13 moderate and were well-controlled with medication.<sup>197</sup>

14 *c. Improvement with treatment*

15 The ALJ also reasoned that Plaintiff more recently reported a "big  
16 improvement" in her overall mood and stability and that her symptoms were  
17  
18

---

19 <sup>194</sup> AR 896.

20 <sup>195</sup> AR 889, 915, 922, 926, 931, 945, 1304, 1329, 1353, 1345, 1348, 1334, 1344, 1359.

21 <sup>196</sup> AR 923.

22 <sup>197</sup> AR 1293.

1 relatively well-controlled with medication.<sup>198</sup> A claimant's improvement with  
2 treatment is “an important indicator of the intensity and persistence of . . .  
3 symptoms.”<sup>199</sup> Symptom improvement, however, must be weighed within the  
4 context of an “overall diagnostic picture,” particularly for mental-disorder  
5 symptoms which often wax and wane.<sup>200</sup> If treatment relieves symptoms to an  
6 extent that allows the claimant to return to a level of function she had before she  
7 developed mental-disorder symptoms, such treatment can undermine a claim of  
8 disability.<sup>201</sup> Plaintiff argues that an exhibit cited by the ALJ was incorrect and it  
9 appears that the ALJ cited a wrong exhibit number. But that error is harmless  
10 because the medical records as a whole support the ALJ’s finding. Here, Plaintiff’s  
11 symptoms were relieved to the extent that her treating source, ARNP Kirner,  
12  
13

---

14 <sup>198</sup> AR 25.

15 <sup>199</sup> 20 C.F.R. § 404.1529(c)(3). *See Warre v. Comm’r of Soc. Sec. Admin.*, 439 F.3d  
16 1001, 1006 (9th Cir. 2006) (“Impairments that can be controlled effectively with  
17 medication are not disabling for the purpose of determining eligibility for SSI  
18 benefits.”).

19 <sup>200</sup> *Holohan v. Massanari*, 246 F.3d1195, 1205 (9th Cir. 2001); *see also Lester v.*  
20 *Chater*, 81 F.3d 821, 833 (9th Cir. 1995) (“Occasional symptom-free periods ... are  
21 not inconsistent with disability.”).

22 <sup>201</sup> *See* 20 C.F.R. § 404.1520a(c)(1).  
23

1 opined that her condition was well-controlled on medication with only mild to  
2 moderate symptoms even in periods when significant stressors were present.<sup>202</sup>

3 Overall, the ALJ's reasoning that Plaintiff's symptoms improved with  
4 medication is supported by the medical record as discussed above. Notably, the  
5 only inpatient hospitalization mentioned in the record is one in which Plaintiff  
6 voluntarily asked for admission and then left early, which would indicate that  
7 psychiatric staff felt no reason to admit her involuntarily.

8 While the medical record might be interpreted in a different manner, it is  
9 not the duty of the Court to reweigh the evidence, but instead to determine  
10 whether substantial evidence supports the ALJ's decision. The Court concludes  
11 that the ALJ adequately explained her reasoning. The Court declines to remand as  
12 to this issue.

13 **B. Medical Opinions: Plaintiff fails to establish consequential error.**

14 Plaintiff argues the ALJ erred by finding that the opinion of the consultative  
15 examiner, Dr. MacLennan, was not persuasive because it was too restrictive.

16 Plaintiff argues that the ALJ failed to consider the effect that anxiety in the  
17 workplace would cause, erred by finding Dr. MacLennan's opinions inconsistent  
18 with Plaintiff's ability to work, erred in considering that Dr. MacLennan was not a  
19 treating source and did not have a longitudinal relationship, and erred in  
20 considering that Dr. MacLennan's opinion was inconsistent with reports of

---

21  
22 <sup>202</sup> AR 1293.

1 improvement in Plaintiff's symptoms with medication. The Commissioner  
2 responds that the ALJ properly assessed Dr. MacLennan's opinion. First, the  
3 Commissioner asserts that by failing to raise an argument as to the supportability  
4 factor, Plaintiff has waived it. He then argues that Dr. MacLennan's examination  
5 findings were inconsistent with her opinions, that the ALJ's reasoning was sound  
6 that Plaintiff performed socially demanding jobs during the relevant period, and  
7 that the record showed benign findings and improvement with treatment. The  
8 Commissioner also argues that the ALJ's consideration that Dr. MacLennan was  
9 not a treating source was only a part of her reasoning.

10 The Court addresses each of these arguments. As is explained below, the  
11 ALJ reasonably found that Dr. MacLennan's opinions were not sufficiently  
12 explained or supported by the record.

13 1. Standard

14 An ALJ must consider and articulate how persuasive she found each medical  
15 opinion, including whether the medical opinion was consistent with and supported  
16 by the record.<sup>203</sup> The factors for evaluating the persuasiveness of medical opinions  
17 include, but are not limited to, supportability, consistency, relationship with the  
18 claimant, and specialization.<sup>204</sup> Supportability and consistency are the most  
19

---

20 <sup>203</sup> 20 C.F.R. § 440.1520c(a)–(c); *Woods v. Kijakazi*, 32 F.4th 785, 792 (9th Cir.  
21 2022).

22 <sup>204</sup> 20 C.F.R. § 404.1520c(c)(1)–(5).  
23

1 important factors.<sup>205</sup> When considering the ALJ's findings, the Court is constrained  
 2 to the reasons and supporting explanation offered by the ALJ.<sup>206</sup>

3 2. Dr. MacLennan's opinion

4 Dr. MacLennan examined Plaintiff at Plaintiff's request on March 8, 2021.<sup>207</sup>  
 5 Dr. MacLennan noted that she had reviewed the following medical records: a  
 6 referral from Family Health Center, noting a diagnosis of Bipolar Disorder;  
 7 treatment records from April 1, 2020, to February 8, 2021; and progress notes from  
 8 Frontier Behavioral Health from August 11, 2020, through August 15, 2020.<sup>208</sup> On  
 9 examination, Plaintiff was well-groomed and cooperative.<sup>209</sup> Plaintiff reported that  
 10 her mood was "alright" and that she had a lot on her plate and was anxious, and  
 11 her affect was congruent.<sup>210</sup> She had no delusions or hallucinations, had normal  
 12 speech, no suicidal or homicidal ideation, normal thought process, and normal  
 13 recent and remote memory.<sup>211</sup> Dr. MacLennan opined that Plaintiff had average  
 14 intelligence and that she repeated five digits forward twice and three digits

---

15  
 16 <sup>205</sup> *Id.* § 404.1520c(b)(2).

17 <sup>206</sup> *See Burrell v. Colvin*, 775 F.3d 1133, 1138 (9th Cir. 2014).

18 <sup>207</sup> AR 765-779.

19 <sup>208</sup> AR 765.

20 <sup>209</sup> AR 768.

21 <sup>210</sup> AR 768-769.

22 <sup>211</sup> AR 769.

1 backwards and that “otherwise, her mental status examination was entirely  
2 normal.”<sup>212</sup> Plaintiff reported the following major stressors in the past year:  
3 changes in her job due to the Covid pandemic, a bankruptcy filing, filing for  
4 divorce, major surgery in July 2020, fracturing her foot in August 2020, checking  
5 into a psychiatric hospital in August 2020 but leaving early due to lack of childcare,  
6 her child’s father filing an unsuccessful challenge for custody of her child and an  
7 online boyfriend who wanted to marry.<sup>213</sup>

8 Dr. MacLennan noted that her finding and Plaintiff’s endorsement of  
9 restless sleep, memory problems, forgetfulness, poor concentration, irritability, fear  
10 of losing control, excessive hand washing, and unusual eating habits, supported  
11 her diagnosis.<sup>214</sup> Plaintiff also endorsed sleep difficulty, fatigue, decreased libido,  
12 being withdrawn, suicidal thoughts, hopelessness, nightmares, panic, anxiety,  
13 confusion, and having gained 10 pounds.<sup>215</sup> Dr. MacLennan diagnosed bipolar  
14 disorder, complex PTSD, mood disorder, and rule out learning disorder  
15 mathematics.<sup>216</sup> Dr. MacLennan opined that Plaintiff performed well in part  
16  
17

---

18 <sup>212</sup> *Id.*

19 <sup>213</sup> AR 770.

20 <sup>214</sup> AR 771-772.

21 <sup>215</sup> *Id.*

22 <sup>216</sup> AR 772.



1 because she had not been under stress from working for several months.<sup>217</sup>

2 Plaintiff's mental status examination score was 30 of 30.<sup>218</sup>

3 Dr. MacLennan assessed Plaintiff with marked limitations in her ability to  
4 carry out detailed instructions; maintain concentration persistence and pace,  
5 maintain a schedule; sustain an ordinary routine; interact appropriately with  
6 others; accept instructions; respond appropriately to changes; and set realistic  
7 goals.<sup>219</sup> She also assessed severe limitations in Plaintiff's ability to work in  
8 coordination with or proximity to others and to maintain attendance.<sup>220</sup> Overall,  
9 Dr. MacLennan assessed an extreme limitation in Plaintiff's social  
10 functioning and a marked limitation in concentration, persistence, and pace.<sup>221</sup> She  
11 also opined that Plaintiff would be off-task over 30% of the time and would miss 3  
12 days of work per month.<sup>222</sup>

---

17 <sup>217</sup> *Id.*

18 <sup>218</sup> AR 775.

19 <sup>219</sup> AR 777-778.

20 <sup>220</sup> *Id.*

21 <sup>221</sup> AR 779.

22 <sup>222</sup> *Id.*

1           3.     The ALJ's findings

2           When evaluating Dr. MacLennan's opinion, the ALJ gave several reasons for  
3 concluding that it was not persuasive.<sup>223</sup> First, the ALJ found that Plaintiff's  
4 examination was inconsistent with the opinion, stating:

5           Dr. MacLennan's examination showed the claimant arrived on time  
6 for her Zoom appointment and there were no concerns about her  
7 appearance. There was no psychomotor hyperactivity, retardation, or  
8 agitation. She was noted to be open, cooperative, and likable. She  
9 reported her mood was alright and her affect was congruent but her  
10 mood for the last week had been anxious. There were no indications of  
11 perceptual disturbances or speech problems. Her thinking was linear,  
12 clear, and goal oriented. She was able to respond to questions, and  
13 there were no concerns as to recent or remote memory. She had low  
14 range immediate memory, but she was able to perform basic  
15 mathematics. Despite her report of test accommodations for her  
16 anxiety, her intelligence was found to be average.<sup>224</sup>

17           The ALJ considered further that Dr. MacLennan did not have a longitudinal  
18 relationship with Plaintiff, stating:

19           Further, Dr. MacLennan is not the claimant's treating psychologist, did  
20 not have a longitudinal treating relationship with the claimant, and  
21 only examined the claimant for the evaluation at the direction of her  
22 representative, suggesting her opinion regarding the claimant's mental  
23 limitations are largely based on the claimant's subjective complaints.<sup>225</sup>

---

20           <sup>223</sup> AR 27-28.

21           <sup>224</sup> AR 28.

22           <sup>225</sup> *Id.*

1 The ALJ then went on to consider that Dr. MacLennan had not had an  
2 opportunity to review the complete medical record and was not aware that  
3 subsequent records indicated improvement with medication and treatment.<sup>226</sup>

4 4. Relevant medical records

5 In its prior finding, the Court cited the medical records of ARNP Kirner and  
6 Family Health Centers. Those records are incorporated herein, by reference.

7 5. Analysis

8 First, the Court concludes that the Commissioner is correct in his assertions  
9 that because Plaintiff did not argue that the ALJ's analysis regarding  
10 supportability was flawed, she has waived the argument. Thus, the Court will  
11 accept and credit that the ALJ did not err when reasoning that Dr. MacLennan's  
12 findings on mental status examination were inconsistent with her opined  
13 limitations and Dr. MacLennan's opinions fail regarding the supportability factor.

14 Additionally, the Court finds that Plaintiff took the ALJ's language with  
15 regard to the fact Dr. MacLennan was not a treating source out of context. It  
16 would appear from the ALJ's language that the ALJ considered that  
17 Dr. MacLennan examined Plaintiff at the request of her attorney and found the  
18 opinion to be less than impartial.<sup>227</sup> The Court finds that the ALJ did not act  
19 improperly in considering the partiality of Dr. MacLennan's opinion. Moreover,

---

20  
21 <sup>226</sup> *Id.*

22 <sup>227</sup> AR 28.

1 this was only one of several reasons that the ALJ found Dr. MacLennan's opinion  
2 not persuasive.<sup>228</sup>

3 Then turning to the consistency factor, the Court concludes that the ALJ  
4 correctly found that Dr. MacLennan's opinions were at odds with the record as a  
5 whole. The ALJ appropriately considered Dr. MacLennan's and Dr. Reget's  
6 opinions by themselves and against each other and to the remaining record,  
7 including the treatment notes and mental-status screenings with primary care  
8 treating and counseling providers.<sup>229</sup> For example, as discussed above,  
9 PA Huffstedler's, ARNP Kirner's, and LMHC Eddy's notes indicate that they  
10 typically observed normal mood and affect.<sup>230</sup> Moreover, as a one-time examiner,  
11 Dr. MacLennan appears to have relied heavily on Plaintiff's subjective complaints,  
12 which the ALJ found not entirely credible. This is a record with evidence that is  
13 susceptible to more than one rational interpretation,<sup>231</sup> and the ALJ's finding that  
14 Dr. Reget's opinion is supported by and consistent with the record more than  
15

---

16 <sup>228</sup> *Id.*

17 <sup>229</sup> 20 C.F.R. § 404.1520c(c)(1) (comparing the medical opinion in question to  
18 "*evidence* from other medical sources and nonmedical sources).

19 <sup>230</sup> AR 889, 915, 922, 926, 931, 945, 1304, 1329, 1353, 1345, 1348, 1334, 1344, 1359

20 <sup>231</sup> *Magallanes v. Bowen*, 881 F.2d 747, 750 (9th Cir. 1989) ("We must uphold the  
21 ALJ's decision where the evidence is susceptible to more than one rational  
22 interpretation.").

Dr. MacLennan's opinion is a rational interpretation of the record. The ALJ's findings in this regard are upheld.

6. Summary

It is the ALJ's responsibility to review and evaluate the conflicting evidence and medical opinions.<sup>232</sup> The ALJ meaningfully explained why she evaluated the mental-health-related medical opinions as she did, and these reasons are supported by substantial evidence.

**IV. Conclusion**

Accordingly, **IT IS HEREBY ORDERED:**

1. The ALJ's nondisability decision is **AFFIRMED**.
2. The Clerk's Office shall **TERM** the parties' briefs, **ECF Nos. 8 and 13**, enter **JUDGMENT** in favor of the **Commissioner**, and **CLOSE** the case.

**IT IS SO ORDERED.** The Clerk's Office is directed to file this order and provide copies to all counsel.

DATED this 3rd day of January, 2024.



EDWARD F. SHEA  
Senior United States District Judge

---

<sup>232</sup> *Tackett v. Apfel*, 180 F.3d 1094, 1102 (9th Cir. 1999).